

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

LARRY JOHNSON, MICHELLE HUME,

Plaintiffs,

Case No. 3:21-cv-00947-JR (lead case)

v.

**GUARDIAN MANAGEMENT, LISA
SIMONSON, KELLY PAINE,**

Defendants.

OPINION & ORDER

MICHELLE HUME, LARRY JOHNSON,

Plaintiffs,

v.

Case No. 3:21-cv-01439-JR (trailing case)

**THOMAS BARRY BRENNEKE, JR.,
GUARDIAN MANAGEMENT,
GUARDIAN REAL ESTATE SERVICES,
UPTOWN TOWER APARTMENTS,
KELLY PAINE, LISA SIMONSON,**

Defendants.

MOSMAN, J.,

On March 15, 2022, Magistrate Judge Jolie A. Russo issued her Findings and Recommendation (“F&R”) [ECF 35 (lead case)] [ECF 34 (trailing case)], recommending that I grant Defendants’ lead case motion to dismiss [ECF 12 (lead case)], grant in part and deny in part Defendants’ trailing case motion to dismiss [ECF 11 (trailing case)], and deny all other

pending motions. Objections were due on March 29, 2022, but none were filed. Upon review, I agree with Judge Russo.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

CONCLUSION

Upon review, I agree with Judge Russo's recommendation, and I ADOPT the F&R [ECF 35 (lead case)] [ECF 34 (trailing case)] as my own opinion. I grant Defendants' lead case motion to dismiss [ECF 12 (lead case)] and dismiss all claims with leave to amend. I grant in part and deny in part Defendants' trailing case motion to dismiss [ECF 11 (trailing case)] and dismiss all claims with leave to amend, with the exception of Claim Ten. I deny Plaintiffs' motion for declaratory judgment [ECF 11 (lead case)]; Defendants' motion for vexatious litigant order [ECF 9 (trailing case)]; Plaintiffs' motion for partial summary judgment regarding the rental payment date [ECF 26 (lead case)][ECF 25 (trailing case)]; Plaintiffs' motion for partial summary

judgment regarding an order concerning their disabilities [ECF 16 (trailing case)]; and Plaintiffs' motion for partial summary judgment regarding access requests [ECF 28 (lead case)] [ECF 27 (trailing case)]. Plaintiffs shall file their amended complaints within fourteen days of the issuance of this opinion.

IT IS SO ORDERED.

DATED this 31 day of March, 2022.

Michael W. Mosman
MICHAEL W. MOSMAN
Senior United States District Judge